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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1279th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Fourteenth periodic report of Cyprus (CERD/C/299/Add.19; HRI/CORE/1/Add.21/Rev.1 (continued)

1. At the invitation of the Chairman the members of the delegation of Cyprus resumed their places at the Committee table.

2. Mr. EFTYCHIOU (Cyprus), replying to questions raised at the 1278th meeting by the Country Rapporteur, Mr. Rechetov, said that the demographic information given in the report (CERD/C/299/Add.19) and the core document (HRI/CORE/1/Add.28/Rev.1) was the most reliable that could be supplied at present. Regarding in particular the Turkish Cypriot community, since the Turkish invasion of 1974 the competent authorities in Cyprus had been forcibly prevented by the Turkish army from undertaking any census or data collection in the occupied territory. All data was therefore based on Turkish Cypriot sources and estimates of population trends. The estimated population breakdown was as follows: 83.9 per cent Greek Cypriots; 12 per cent Turkish Cypriots; 3 per cent foreign nationals; 0.6 per cent Maronites; 0.4 per cent Armenians; 0.1 per cent Latins. Estimates of the population of the Turkish Cypriot community in the occupied area were further complicated by the settlement of large numbers of Turkish citizens as well as the emigration of many Turkish Cypriots since 1974. Taking as a basis the 1973 census, which had put the Turkish Cypriot population at 116,000, Turkish Cypriot press reports indicating that some 25 per cent of that population (26,800) had emigrated since 1974, and Turkish Cypriot sources claiming that the total population of the occupied area now stood at 198,215, it could be assumed that 89,200 were Turkish Cypriots and the remaining 109,000 must be Turkish settlers.

3. Likewise it was difficult to provide specific information on the economic situation of Turkish Cypriots since the Republic of Cyprus, with its fully-fledged market economy, did not differentiate between the members of its economically active population on the basis of ethnic or religious status.

4. With reference to the implementation of articles 2 and 6, apart from the complaints filed by foreign domestic staff mentioned in the report (paras. 4 and 14), there had been several cases of appeals against decisions by the Department of Immigration relating to citizenship, refusal of entry and expulsion. They were not considered to be cases of racial discrimination, since the decisions appealed against were in keeping with the Citizenship Law and the Aliens and Immigration Laws, whose provisions were not racially discriminatory.

5. The people referred to as "Latins" in the demographic data were descendants of the Frankish Lusignans and the Venetians who had ruled over the island before it had become part of the Ottoman Empire. The Latins identified themselves on the basis of their common Catholic faith.

6. Economic relations between the two main communities on the island were virtually impossible on account of the systematic policy of the Turkish occupying forces to keep the two communities apart. Repeated efforts by the Government of Cyprus to involve the Turkish Cypriots in international negotiations, including the recent talks concerning accession to the European Union, had always been rejected by the Turkish side, as had efforts by third parties to achieve a rapprochement between the two communities. That notwithstanding, the Government of Cyprus had endeavoured over the years to ensure that Turkish Cypriots enjoyed the benefits and facilities of other Cypriot citizens, as was borne out by the Secretary-General's relevant report to the Human Rights Commission (E/CN.4/1998/55). Regrettably the same could not be said of the Greek and Maronite Cypriots living in the occupied territory, who were unable to exercise their basic rights. A case had recently been brought before the European Court of Human Rights concerning one such citizen who was denied access to her property. The verdict of the Court was that such matters fell within the jurisdiction of Turkey.

7. In reply to questions by Mrs. Sadiq Ali, he explained that the illegal visit of the Turkish President to the occupied territory was but one of a series of visits by high-ranking Turkish politicians, including the Turkish Prime Minister, at a time when celebrations were being held in the occupied area to mark the Turkish invasion of 1974. The Turkish President's visit could only be interpreted as another step by Turkey to further entrench itself in the occupied area, particularly in the light of recent declarations about the incorporation of Cyprus into Turkey.

8. According to 1996 statistics, the main countries of origin of foreign housemaids in Cyprus were the Philippines, Sri Lanka, Greece, Bulgaria, Lebanon and Sweden. A more detailed breakdown could be provided in future reports.

9. The Cypriot education system aimed to provide the broadest possible education to all students, taking account of the country's own history, culture and traditions. Schools in Cyprus celebrated important international anniversaries including Human Rights Day, United Nations Day and the International Day for the Elimination of Racial Discrimination, thereby exposing their children to information that went far beyond the confines of Europe.

10. Responding to queries by Mr. Valencia Rodriguez, he said that the bill providing for the protection of refugees was intended to set the parameters for granting political asylum to refugees and to eliminate any discrimination on grounds of ethnic origin.

11. Among the conditions to be met before the Immigration Department could issue a foreigner with a work permit was a shortage of labour in a given sector as certified by the Ministry of Labour and Social Insurance. The shortage of domestic staff was so great that it had been decided that the Immigration Department could issue the relevant permits without requiring a prior report from the Ministry of Labour and Social Insurance. Perhaps that was what Mr. Valencia Rodriguez had meant by double standards in issuing work permits?

12. The question by Mr. de Gouttes concerning complaints of racial discrimination and their follow-up had been dealt with in part in the reply to Mr. Rechetov's question about the implementation of articles 2 and 6. However, it was worth noting that, as a result of a complaint lodged by a foreign domestic worker, the Ombudsman had concluded that there was discrimination against foreign domestic staff, whose complaints about conditions of employment were not treated in the same way as those of other foreign workers. The Government had therefore set up a mechanism whereby all foreign workers who considered that their terms of employment had been violated could lodge a complaint with the Ministry of Labour and Social Insurance.

13. On the subject of the training of public officers, the Government's Personnel Department had recently informed the Law Commissioner that the new curriculum for education and retraining of public servants would henceforth include international agreements, particularly those relating to human rights.

14. In answer to Mr. Yutzis' questions, he said that, following the recommendations of the Ombudsman, the police no longer investigated employment complaints by foreign domestic staff, and the Ministry of Labour was henceforth responsible, on a permanent basis, for housemaids as for all other foreign workers. With reference to illegal acts or improper conduct by an administrative authority, the post of Ombudsman had been instituted as an additional safeguard against such violations of individual rights. Following a 1994 recommendation of the Ombudsman, citizenship was now granted automatically to all children of a Cypriot citizen, regardless of which parent was the citizen. As to the Cyprus Broadcasting Corporation, it was a public corporation administered by a Board of Directors appointed by the Council of Ministers. The members of the Board served in their personal capacity and acted independently of the Government. It was a non-profit organization devoting its entire income - derived from contributions by the public, advertising and government subsidies when necessary - to providing information, culture and entertainment.

15. Concerning the political system, the two major Cypriot communities served in Parliament according to a non-derogable constitutional quota system: 70 per cent of the seats were allocated to Greek Cypriots and 30 per cent to Turkish Cypriots. Members of the smaller Cypriot communities opted freely to belong to one or the other major community and enjoyed the same political rights as its other members; and they were, further, entitled to elect an additional community representative to Parliament outside the quota system. Thus, the system did not make for tensions between political parties and smaller religious minorities because they were not running for the same parliamentary seats.

16. Concerning the employment of Muslims as civil servants, any Muslim or Christian, regardless of ethnic origin, could be employed in the civil service if he or she was a citizen; aliens too could be employed in the civil service if they were married to a citizen and fulfilled certain residency conditions.

17. In answer to Mr. van Boven's questions, he said that the Constitution was the supreme law of the land and that municipal law had superior force to international instruments, which could be directly invoked if they were

self-executing or if there was specific enacting legislation, as in the case of the Convention, which had been enacted by law 11 (III) of 1992. One of the tasks of the two national institutions being established for the promotion and protection of human rights was to make recommendations for bringing Cypriot legislation into line with the international human rights treaties.

18. As to recourse available to victims of discrimination, they could, under article 146 of the Constitution, institute legal proceedings against any organ, authority or person for the recovery of damages or for any other remedy. In addition, criminal courts could award compensation to victims of crimes, and the Republic was liable for any wrongful act or omission causing damage committed by public officials in the exercise of their duties.

19. General Recommendation XIII on the training of law enforcement officials had been complied with, and courses had in fact been given for a number of years at the Police Academy concerning the provisions of the Convention and the other human rights instruments; seminars and lectures in which the Attorney-General himself would take part were also being organized. Unfortunately, bicommunal activities sponsored by the United Nations Force in Cyprus (UNFICYP) and others remained suspended because of the Turkish occupation forces' ban on Turkish Cypriot participation, a situation referred to by the Secretary-General in his report on the United Nations operation in Cyprus (S/1998/488, para. 33).

20. The Government translated all binding international instruments into the official languages before ratification and published them as part of Cypriot law in the Official Gazette. Consequently, lawyers and any other interested parties were made aware of their provisions and could invoke them when appropriate. The National Institution for the Promotion and Protection of Human Rights to be established would be composed of representatives of the Attorney-General, of the Ministries of Foreign Affairs, Finance, Interior, Justice and Public Order, Labour and Social Insurance, and Education and Culture, of the Ombudsman and of any other ministry or department deemed necessary by the Chairman of the Institution. It would also include representatives of human rights organizations, the University of Cyprus, the House of Representatives and professional organizations working in relevant fields.

21. Responding to Mr. Diaconu, he explained that Cyprus had two official languages, Greek and Turkish, at least one of which was spoken by its citizens. Members of minority communities might also speak other languages, such as Armenian, Italian or Arabic. The full implementation of article 4 of the Convention was ensured by law 11 (III) of 1992, which made criminal offences of the acts covered by article 4; that law would shortly be amended as the Committee had recommended. Regarding violations of rights in the private sector, individuals had recourse to civil proceedings for compensation, restitution or declaratory judgement or, in the case of irreparable injury, an injunction; private criminal proceedings; and appeals in both civil and criminal cases.

22. He assured the Committee that its comments would be conveyed to his Government and that any unanswered question would be dealt with in the next periodic report.

23. The CHAIRMAN, speaking as a member of the Committee, observed that the delegation of Cyprus had confined its comments concerning relations between the Turkish Cypriot and Greek Cypriot communities to the situation following the Turkish invasion of 1974. He, on the other hand, was particularly interested in the root cause of the tension between the two communities, which clearly predated the Turkish occupation. He recalled that while visiting the island prior to 1974 he had been surprised to see so many Turkish and Greek flags flying on private property, and the flag of Cyprus on display only on public sites and buildings. He wondered whether the reason for such hatred was religious or historical, which might possibly be traced back to the Ottoman Empire. Was there any hope that the problem might be resolved in future, and that the two communities might learn to live together peacefully? The situation in Cyprus was not unique, and there were other countries in the world where different communities were unable to live together in harmony.

24. He would also welcome more information on the official languages used in Cyprus. The Turkish Cypriot community, irrespective of its size, should have access to the texts of important international agreements in its native language.

25. Lastly, he was fully aware that Cyprus was well informed about and enjoyed good relations with countries outside Europe, notably on account of its membership of the Non-Aligned Movement.

26. Mr. GARVALOV, while welcoming the prospect of more detailed information in future reports, nonetheless sought answers to some of the more specific questions he had raised at the previous meeting. With reference to paragraph 69 of the report, he inquired whether all gypsies in Cyprus were in fact Muslims. Furthermore, he wondered how the delegation could reconcile the statement in paragraph 68 of the report to the effect that communities in Cyprus were divided according to their religious beliefs and not according to their ethnic origin with the ratification by Cyprus of the (European) Framework Convention for the Protection of National Minorities, in which the concept of national minority was certainly not restricted to religious beliefs.

27. He asked whether foreign domestic workers were familiar with the provisions of the Convention and, if so, whether they could invoke it in a court of law. It appeared from the information furnished that, unless complaints from such workers involved acts of violence, which would be followed up by the police authorities, they were regarded as pertaining to labour relations and therefore came within the competence of the Ministry of Labour.

28. Mr. van BOVEN said that he hoped that the Republic of Cyprus would provide further information on the establishment of the National Institution for the Promotion and Protection of Human Rights in its fifteenth periodic report. That the Institution would apparently include representatives of national ministries and departments might make it less independent. The Government might wish to bear that in mind while the Institution was still at the planning stage.

29. Mr. de GOUTTES asked how the Ombudsman and the new human rights body would work together and whether the Ombudsman was competent to receive complaints of racial discrimination.

30. Mr. EFTYCHIOU (Cyprus) said, in response to the Chairman's personal comment and questions, that the situation at the time of his visit to Cyprus had to be considered in a historical context. Until 1960, Cyprus had had little or no experience of independent statehood, which meant that Cypriots, deprived of statehood, had also been deprived of the symbols that went with it. Once they had been allowed to enjoy them, they had been deeply attached to them. Furthermore, the Constitution of the Republic of Cyprus had established that citizens of Cyprus could continue to fly the flag of the Republic, or the Greek or Turkish flag without restriction.

31. As to the future reunification of the people of Cyprus, historically Cypriots had always been able to find a compromise and solutions to their problems. What had happened in 1974 was seen by both Greek and Turkish Cypriots as the work of third parties, not the fault of either community. The frustration of facing problems that were not of their own making would provide enough of a catalyst for the people of Cyprus, once the machinations of those third parties were thwarted, to live in harmony.

32. In response to further questions, he said that Greek and Turkish were both official languages of the Republic of Cyprus. On the subject of gypsies, he assumed that the statement in paragraph 69 of the report (CERD/C/299/Add.19) referred to a period when the Republic had been in the process of being established and communities had opted for one religion or another. The question on the interpretation of national minorities would be answered in writing or in the subsequent report. The delegation would pass on the Committee's comments regarding the composition of the proposed Human Rights Institution. In Cyprus, the Ombudsman was known as the Commissioner for Administration. The Commissioner was competent to investigate complaints of racial discrimination where the charges were levelled against administrative authorities.

33. Mr. RECHETOV (Country Rapporteur) applauded the frank and businesslike manner in which the delegation of Cyprus had approached its discussions with the Committee, thus providing a good example for other reporting States. Many important and fundamental issues had been raised, not least the insane situation that could arise when one community was pitted against another, power was abused and the nationalist issue was used for selfish gains.

34. He would like an answer to the question raised by Mr. Garvalov regarding foreign domestic workers and the recourse available to them in the event of racial discrimination.

35. He expressed his dismay at the situation in the Republic of Cyprus which prevented the population from enjoying human rights to the full.

36. The delegation of Cyprus withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Form of concluding observations

37. Mr. BANTON said that at its fifty-first session, the Committee had begun to consider possible changes to the five-section format for concluding observations, to try and simplify them and establish a sounder basis for dialogue with States parties. From the discussion during the ninth meeting of persons chairing the human rights treaty bodies, it appeared that certain committees found the existing structure somewhat restrictive, particularly insofar as they felt that they were unable to include comments under the section entitled "Suggestions and recommendations" if the same comments had not already been made under the section "Principal subjects of concern".

38. At the fifty-second session, he had drafted a proposal (CERD/C/52/Misc.24) to make the concluding observations more flexible. Members of the Committee had also tried drafting two versions of the concluding observations (A and B) on the reports of some States parties. The Committee had subsequently opted for the more traditional format for concluding observations in most cases, but not all. Further discussion was needed because the draft concluding observations on Croatia and Cyprus were already being prepared. Any proposals by members of the Committee should take account of paragraphs 32 and 33 of the report of the ninth meeting of persons chairing the human rights treaty bodies (A/53/125).

39. The CHAIRMAN said that the first issue worrying him was the length of the Committee's concluding observations, which should include no more than a summary of the issues on which there had been agreement. The second question was how to ensure compliance with article 9, paragraph 2, of the Convention which stated that the Committee's suggestions and recommendations should be reported to the General Assembly together with comments, if any, from States parties.

40. Mr. BANTON said that there were advantages to having procedures that were common to all human rights treaty bodies, both for the Committee and for the States parties. The Chairman should take up his second source of concern at the tenth meeting of chairpersons.

41. The CHAIRMAN said that the extent to which the Committee could coordinate with other treaty bodies was limited. He did not agree that the reports of such bodies should all use the same format since their conventions and treaties differed. Furthermore, the Committee had been a pioneer and its Rules of Procedure (CERD/C/35/Rev.3) had inspired other treaty bodies.

42. Mr. van BOVEN said that there should be no major changes in the form of the concluding observations prepared at the current session, since they would appear in the Committee's report to the General Assembly alongside those from the previous session in March 1998, which had been prepared according to the old format. Any changes should take effect only from the next session in March 1999.

43. Mr. de GOUTTES agreed that concluding observations produced during the current session should follow the old format.

44. He asked how comments from States parties could best be included in the report to the General Assembly in order to ensure compliance with article 9 (2) of the Convention. In the past, letters from States parties had been circulated to the members, but had not always been included in the report. The comments could be incorporated into the concluding observations themselves or annexed to the report. Perhaps the practice of other treaty monitoring bodies might provide an example for the Committee to follow.

45. He considered that the Committee did not pay enough attention to the action taken by States parties to follow up the points made in concluding observations. A new section on follow-up could be added to the concluding observations, although that would defeat the object of making them more concise. Alternatively, States parties could be asked to include a section in their report to indicate how they had followed up the Committee's comments and questions after the consideration of their previous report. The Committee against Torture, for example, specifically requested such information in its general guidelines regarding the form and contents of periodic reports (CAT/C/14/Rev.1).

46. Mr. GARVALOV said that the Committee should constantly review the fruits of its labours - namely, its concluding observations - and perfect them. However, it was important to ensure that the concluding observations were uniform in content as well as style. For example, the Committee frequently called upon States parties to consider making the declaration provided for in article 14 of the Convention and had agreed on a form of language and its place in the text of the concluding observations, but on occasion entered into other considerations. In its concluding observations on the report of Bulgaria in 1997 (A/52/18, para. 275 et seq.), for instance, the Committee had welcomed Bulgaria's declaration in respect of article 14, but had then gone on to raise further issues, arising from that declaration, which should properly have been included in the section "Principal subjects of concern". If States parties were confronted by requests for more information from the Committee as soon as they made the declaration under article 14, others might be discouraged from doing the same.

47. States parties' comments need not physically form part of the Committee's report to the General Assembly. The report might, for instance, contain a footnote indicating that the State party's comments appeared in another document and giving the document symbol.

48. The CHAIRMAN said that, in his understanding of article 9, paragraph 2, of the Convention, the State party's comments should be closely associated with the Committee's report. Mr. Garvalov's suggestion might not provide a close enough link.

49. Mr. SHERIFIS agreed with Mr. van Boven that any changes to the form of concluding observations should take effect from the next session in March 1999. Any comments by States parties should form an annex to the Committee's report, rather than appearing in the body of the concluding observations. He drew the Committee's attention to another potential problem: comments from States parties might be much longer than the concluding observations. It might be possible to set a limit on their length, or summarize them, but the State party might object to either of those solutions.

It was also important to consider the possible consequences of including States parties' comments on a regular basis. States parties would have to be reminded of their right to comment on concluding observations, if they saw fit, and allowance must be made for the possibility that every State party might wish to do so.

50. The CHAIRMAN said that the concluding observations merely summarized the Committee's discussion during its meetings. States parties had the opportunity to comment during the debate, if they wished. Also, the summary records of the discussion would be available at the General Assembly if States parties wished to raise any issues there.

51. Mr. SHAHI said that States parties' comments should be linked as closely as possible to the Committee's report. That would be simple in the case of reports considered at the March session, but it would be much more difficult for those considered at the August session. States parties would have very little time to submit their comments before the Committee's report was considered by the General Assembly. Any comments received after that would have to be included in the Committee's next report, which was surely not desirable.

52. He agreed that it would be better, in principle, to establish a uniform format for concluding observations, to be followed by all the treaty bodies, but acknowledged that that would be difficult in view of their differing mandates. Concluding observations should not be made too short, or they would be merely cryptic. It might be possible to combine the sections "Principal subjects of concern" and "Suggestions and recommendations" in one section, to avoid repetition.

53. Mr. DIACONU said that although changes were definitely needed, the form of the concluding observations should not be changed until the next session. He agreed that the sections on concerns and recommendations could perhaps be combined.

54. States parties' comments had been included in the report in the past. For example, in the Committee's previous report (A/52/18), comments by the Government of the Philippines had been annexed to the report, although only as annex VIII. They should be given higher priority, by being included as annex I, and their presence should be indicated by a footnote in the main body of the text.

55. He took Mr. Shahi's point that States parties whose reports were considered in the August session would have little time to submit their comments. Perhaps a time limit - say the middle of September - could be set for comments from States parties. Any comments arriving after that could be issued as an addendum to the report.

56. The CHAIRMAN suggested that members should submit their suggestions in writing to the Secretariat so that a decision could be taken at the next session.

57. Mr. YUTZIS agreed that the old format should be used for reports considered at the current session and that States parties' comments should be

annexed to the report, with a cross-reference in the main text. States parties should be asked to limit the length of their comments, say to two pages.

57. Mrs. ZOU Deci suggested that the Committee should take a firm decision at the current session about the changes to be made to the concluding observations, and then apply them from the next session, or no progress would be made at all. She felt that States parties' comments should appear in the main text of the report, rather than as an annex, where they would attract little attention. Although it was true that States parties' comments might be longer than the Committee's concluding observations, she did not consider that to be a problem.

58. Mr. van BOVEN agreed that any changes should be decided at the current session, if possible, to save time. No major changes were needed: the format of the concluding observations had been steadily improved over the years, for instance with the deletion of the old "narrative" section. The concluding observations were now more specific and gave better guidance about follow-up by States parties. If they were shortened further, their quality and effectiveness might be reduced.

59. Mr. SHAHI observed that there seemed to be a consensus that the current format of the concluding observations should be retained, with a later decision to be taken on the issue of more uniform reporting by the various treaty bodies.

60. Mr. BANTON said that he had no disagreement with the Chairman on the different mandates of the various treaty bodies, but considered that it would be to the advantage of the Committee, the States parties and all others concerned to keep to a common practice as closely as possible.

61. Mr. GARVALOV, agreeing that the current format of the concluding observations should be retained for the moment, suggested, however, that the secretariat, in preparing the Committee's report, could perhaps highlight the fact that a given State party had commented on the concluding observations by indicating with an asterisk that the specific comments were to be found in a particular annex.

62. The CHAIRMAN said he took it that the Committee wished to have the concluding observations follow the old format at the current session and to have members submit suggestions for changes in writing to the secretariat, so that a final decision could be reached on the issue at the beginning of the next session in March 1999.

63. It was so decided.

Other matters

64. The CHAIRMAN said that he would welcome the advice of Mr. Banton and other members on issues to be taken up at the meeting of chairpersons in September.

65. Mr. van BOVEN said that in addition to the situations scheduled for consideration under agenda item 3, there were other developments of concern - such as the recent Australian law seriously affecting the rights of Aboriginals and the situation in Chiapas in Mexico - that would warrant asking the States parties in question to expedite their reports and respond specifically to those points.

66. Mr. BANTON said that it would be preferable to ask Australia simply to provide further information on the point at issue under article 9.1, which would be a speedier procedure than asking it to expedite a periodic report containing the requisite updated information.

67. The CHAIRMAN requested a written proposal from Mr. van Boven, his own suggestion being that the States parties could be asked to send representatives to the current session under urgent action procedures to discuss the points.

68. Mr. van BOVEN said that the matter needed further thought, but that he would prepare draft decisions, in consultation with other members, for circulation at the next meeting.

69. Mr. GARVALOV said that one of the issues to be taken up during the forthcoming dialogue with the High Commissioner for Human Rights was the question of the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance, and proposed an informal meeting with the Committee's three-member contact group prior to that discussion.

70. Mr. SHAHI said, with reference to the dialogue with the United Nations High Commissioner for Human Rights, that the article on the outlook for the United Nations to which he had drawn attention the previous day had now been circulated to members of the Committee, and suggested that any comments on it might be made at the next meeting.

The meeting rose at 12.45 p.m.